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AUTHORITY: 18 U.S.C. 831–835, 46 U.S.C. 170 (11), 49 U.S.C. 1421(c), 49 U.S.C. 1806, 49 CFR 1.53(e)–(h).

Subpart A—General Provisions

§ 107.1 Purpose and scope.

(a) This part prescribes procedures utilized by the Materials Transportation Bureau and the Office of Hazardous Materials Operations in carrying out their duties under the laws pertaining to the transportation of hazardous materials.

(b) This subpart defines certain terms and prescribes procedures that are applicable to each proceeding described in this part.

§ 107.3 Definitions.

As used in this part—

“OHMO” means the Office of Hazardous Materials Operations.

“MTB” means the Materials Transportation Bureau.

§ 107.5 Request for confidential treatment.

(a) If any person filing a document with the OHMO claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970)), is information referred to in 18 U.S.C. 1905 (1970), or is otherwise exempt by law from public disclosure, and if that person requests the OHMO not to disclose the information, that person shall file together with the documents a second copy of the document from which has been deleted the information for which confidential treatment is claimed. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b) (4) for trade secrets and commercial or financial information, that person must include a statement as to why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information de-

leted, the OHMO may assume that there is no objection to public disclosure of the document in its entirety.

(b) The OHMO retains the right to make its own determination with regard to any claim of confidentiality. Notice of a decision by the OHMO to deny the claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

Subpart B—Exemptions

§ 107.101 Purpose and scope.

This subpart prescribes procedures by which persons who are subject to the requirements of this subchapter, Subchapter C of this chapter, 14 CFR Part 103, or 46 CFR Part 64 or Part 146 may obtain administrative relief therefrom on the basis of equivalent levels of safety or levels of safety consistent with the public interest and the policy of the Hazardous Materials Transportation Act.

§ 107.103 Application for exemption.

(a) Any person who is subject to the requirements of this subchapter, Subchapter C of this chapter, 14 CFR Part 103, or 46 CFR Part 64 or Part 146 may apply to the Director, OHMO, for an exemption from those requirements.

(b) Each application filed under this section for an exemption must—

(1) Be submitted in triplicate to: Office of Hazardous Materials Operations, U.S. Department of Transportation, Washington, D.C. 20590, Attention: Exemptions Branch;

(2) Set forth the text or substance of the regulation from which the exemption is sought;

(3) State the name, address, and telephone number of the applicant;

(4) Include a detailed description of the proposal, including when appropriate, drawings, plans, calculations, procedures, test results, previous exemptions, approvals or permits, a list of specification containers, if any, to be used, a list of modified specification containers, if any, to be used, and a description of the modifications, and any other supporting information;

(5) State the chemical name, common name, hazard classification, form, quantity, properties, and characteristics of the material covered by the proposal, including composition and percentage (specified by volume or weight) of each chemical, if a solution or mixture;

(6) Describe all relevant shipping and accident experience;

(7) Specify the proposed mode of transportation, identify any increased risks that are likely to result if the exemption is granted, and specify the safety control measures which the applicant considers necessary or appropriate to compensate for those increased risks;

(8) Specify the proposed duration or describe the proposed schedule of events for which the exemption is sought;

(9) State why the applicant believes the proposal including any safety control measures specified by the applicant will achieve a level of safety which—

(i) Is at least equal to that specified in the regulation from which the exemption is sought, or

(ii) If the regulations do not contain a specified level of safety, will be consistent with the public interest and will adequately protect against the risks of life and property which are inherent in the transportation of hazardous materials in commerce;

(10) If the applicant seeks to have the application processed on a priority basis, set forth the supporting facts and reasons.

(c) Unless the Director, OHMO, finds that there is good reason for priority processing of an application, each application is processed in the order in which it is received. To permit timely consideration, an application should be submitted at least 120 days before the requested effective date.

(d) If the applicant wishes to claim confidential treatment for any information contained in the application, the procedures set forth in § 107.5 apply.

§ 107.105 Application for renewal.

(a) Each application for the renewal of an exemption issued under this subpart must—

(1) Be submitted in triplicate to: Office of Hazardous Materials Operations, U.S. Department of Transportation, Washington, D.C. 20590, Attention: Exemptions Branch;

(2) Identify the exemption for which a renewal is requested;

(3) State the name, address, and telephone number of the applicant;

(4) Include (i) a certification by the applicant that the descriptions, technical information and safety assessment submitted in the original application, or as may have been updated by any subsequent application for renewal, remain accurate and correct, or (ii) such amendments to the previously submitted descriptions, technical information and safety assessment as is necessary to update them and assure their accuracy and correctness;

(5) A statement describing all relevant shipping and all accident experience that has occurred in connection with the exemption since its issuance or most recent renewal or, if no accidents have been experienced, a certification to that effect. This statement must include the approximate number of shipments made or packages shipped, as the case may be, and the number of shipments or packages involved in any loss of contents, including loss by venting when transporting a compressed or cold temperature gas.

(b) To permit timely consideration, an application for renewal should be submitted at least 60 days before the expiration date of the exemption.

(c) If, at least 60 days prior to the expiration of an existing exemption of a continuing nature, the holder files an application for renewal which is complete and conforms with the requirements of this section, the exemption will not be considered to have expired until the application for renewal has been finally determined.